IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1584 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BABABHAI BECHARBHAI C/O NAVJAGRUT LABOUR UNION

Versus

DISTRICT COLLECTOR

Appearance:

1. Special Civil Application No. 1584 of 2001

MR TR MISHRA for Petitioner No. 1

MS. NANDINI JOSHI. A.G.P for Respondent No. 1

MS SUDHA R GANGWAR for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 27/08/2001

ORAL JUDGEMENT

1. Rule. In view of this Court request Ms.Nandini Joshi to waives service of rule on behalf of State. Bababhai Becharbahi - petitioner has filed this petition

for writ of mandamus or order of direction directing the District Collector, Ahmedabad respondent no. 1 to recover the amount of Rs. 83,270/and Rs. 2,980/- in terms of the Recovery Certificates from Shri. Harishbhai Himatlal Choksi respondent no. 2. He has filed this petition on the ground that the amount due for payment to the petitioner in terms of the order passed by Authority, under Payment of Wages Act in Payment of Wages Application No. 174/1999 dated 31st March, 2000. The facts giving rise to the petition are as under:-

2. The petitioner has filed the Payment of Wages Application No. 174/1999 before the Labour Court and Authority under the Payment of Wages Act, (hereinafter referred to as the Act) passed an order dated 31st March, 2000. The Authority was pleased to pass order directing that Shri. Harishbhai Himatlal Choksi respondent no. 2 is liable to pay Rs. 83,270/and Rs. 2,980/- to the petitioner. The said order was passed on 31st March, 2000 which was communicated to petitioner as well as respondent no. 2 on 25th May, 2000.

3. Pursuant to the aforesaid order, the Authority has further ordered on 25th August, 2000 that on account of recovery to the petitioner, as per the order passed on 31st March, 2001 in Payment of Wages Application No. 174/1999. The said sum Rs. 83,270/- and Rs. 2,980/- is recoverable by the respondent no. 2 as if it were an arrear of land revenue which has accrued in the said district, and respondent no. 2 was also directed to recover it and to remit the said amount to their Office at Ahmedabad. The said certificates for the sum of Rs. 83,270/- towards arrears and Rs.2,980/- is produced at Annexure - B to this petition.

4. Pursuant to the said certificate, the learned Advocate for the petitioner had addressed the notice dated 12th November, 2000 to the District Collector, Ahmedabad - respondent no. 1 pointing out all the aspect to recover the dues in terms of Recovery Certificate dated 25th August, 2000 for recovering an amount of Rs. 83,270/- and Rs. 2,980/- asking the District Collector to act immediately on the same aspect.

5. As the Authority failed & neglected to recover the legal duties, the present petition has been filed by the petitioner on 1st March, 2001. The matter was placed for hearing before this Court on 5th March, 2001. This Court passed the following order (Coram :- A.R. Dave,J.):-

5.1. "Notice to the respondents returnable on 27.03.2001. In the meantime, respondent no. 1 shall give the details with regard to actions taken by him in pursuance of Recovery Certificate dated 25.08.2000 issued by the Labour Court to him. If no action has been taken so far, it is hope that immediate action would be taken for recovery of the amount in question."

5.2. Thereafter, on 25th April, 2001 again this Court again passed following order (Coram :- D.C. Srivastava,J.)

5.3. Smt. R.V. Desai learned A.G.P. states that since notice was served on Respondent no. 1 only on 16.04.2001 and as he has no instructions, time may be given to him to file counter affidavit. S.O. to 22.06.2001. Counter Affidavit may be filed in the meantime.

5.4. In support of the aforesaid orders, when the matter was placed for hearing Mr. Mishra learned Advocate for the petitioner contented all the facts which are set out earlier, and stated that in respect of the aforesaid order of this Court, the Collector had failed and neglected to perform his legal duties in this behalf. The Collector has also not filed any affidavit in response to the notice issued by this Court.

5.5. Ms. Nandini Joshi, learned Advocate appearing on behalf of the Collector also stated that at present she has no instructions in this behalf.

5.6. In view of the aforesaid circumstances, I finally dispose of the matter, with the directions to the Collector that respondent no. 1. The Collector has to recover the sum Rs. 83, 270/- plus2,980/- in terms of recovery certificate from respondent no. 2 namely Harishbahi Himatlal Chokshi and after recovering the same, Collector will deposit the said amount with Payment of Wages Authority. I also direct the Collector to recover the said amount within four weeks from the date of the receipt of the writ of this Court, and after Collector receives the same, he will deposit the same before the Payment of Wages Authority within two weeks from the date of the receipt in this behalf. After the amount is deposited in the Payment of Wages Authority, the authority will see that the said amount is paid to Shri Bababhai Becharbhai-petitioner herein in this behalf by duly cross account payee cheque.

5.6A It may be noted in earlier matter in identical

matter I have already directed that Secretary Revenue Department should initiate certain steps, and should write a letter to the Collector so that the Collector takes necessary steps, so that the workers may not have to go here and there, for recovery of amount. I hope and trust that Secretary Revenue must have initiated necessary steps in this behalf. I have been informed by Shri. T.R. Mishra, learned Advocate that even Public Interest Litigation has been filed by this Court in this behalf. I also request the Secretary Revenue to look into the matter and see that Collector acts simultaneously as per the order of this Court in consonance with the two circulars issued by the Authority in this behalf.

(K.M. MEHTA,J.)

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